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October 21, 1996

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Federal Communications Commission
Office of Secretary

DOCKET FILE COPY ORIGINAL

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: **Pittencrieff Communications, Inc.**
PR Docket 93-144/RM# 8887
Comments in Support of AMTA Petition

Dear Mr. Caton:

Transmitted herewith, on behalf of Pittencrieff Communications, Inc. ("PCI"), are an original and four copies of its Comments in response to the Commission's Public Notice, dated October 4, 1996, requesting public comment on the American Mobile Telecommunications Association's ("AMTA") petition in the above-referenced proceeding.

Should there be any questions concerning this transmittal, please do not hesitate to contact the undersigned.

Sincerely,



Russell H. Fox

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OCT 22 1996

Federal Communications Commission
Office of Secretary

In the Matter of

American Mobile Telecommunications Assoc.
Petition for Rule Making Concerning
Geographic Partitioning and
Spectrum Disaggregation

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RM - 8887
PR Docket 93-144

To: The Commission

COMMENTS

Pittencrieff Communications, Inc. ("PCI"), by its attorneys and pursuant to the Public Notice, DA 96-1654, released by the Federal Communications Commission ("FCC" or "Commission") on October 4, 1996, hereby files its Comments in support of the Petition for Rule Making ("Petition") submitted by the American Mobile Telecommunications Association ("AMTA") on September 30, 1996.

I. Introduction

PCI is a leading provider of Specialized Mobile Radio ("SMR") services in the United States with approximately 93,000 subscriber units in service in a footprint containing approximately 29 million people. PCI serves SMR customers on approximately 4,300 800 MHz SMR channels providing coverage in Texas, New Mexico, Oklahoma, Arizona, Colorado, North Dakota and South Dakota. PCI also obtained numerous 900 MHz MTA-based SMR licenses in the Commission's recent auction. As a provider of 800/900 MHz SMR services throughout the southwestern and western

portions of the United States, the rules and regulations proposed by AMTA in its Petition will have a direct impact upon PCI's operations. Accordingly, PCI is pleased to have this opportunity to participate in this proceeding.

In its Petition, AMTA requests that the Commission permit all 900 MHz MTA-based SMR licensees to partition their licenses on a geographic basis and disaggregate assigned spectrum. AMTA states that adoption of its proposal will increase efficiency and competition in the 900 MHz SMR service. In its Public Notice, the Commission indicates that it is considering the issues raised in AMTA's petition in conjunction with the ongoing proceeding designed to address geographic licensing of 800 MHz SMR systems^{1/} and requests comment from interested parties.

II. Comments

PCI supports AMTA's Petition. The changes suggested by AMTA will have a beneficial effect on the development of the commercial mobile radio services ("CMRS"). The requested rule changes are also appropriate in light of the recent passage of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996), and other regulatory developments that have significantly changed the Commission's approach to the commercial wireless services.

In particular, AMTA's proposals are consistent with the Commission's recent actions providing increased licensing flexibility for wireless services providers. The Commission has, on several occasions, adopted policies that promote maximum

^{1/} Future Development of SMR Systems in the 800 MHz Frequency Band, First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rule Making, 11 FCC Rcd 1463 (1995).

possible licensing flexibility in the wireless services. In WT Docket No. 96-148, the Commission proposed that broadband PCS licensees be permitted to partition and disaggregate spectrum on terms and conditions similar to those suggested by AMTA. *Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Services Licensees, Notice of Proposed Rule Making*, FCC 96-287, released July 15, 1996. In that proceeding, the Commission also noted the radio services that currently allow (or have proposed to permit) partitioning and disaggregation. *Id.* at ¶¶ 6-8.

Similarly, in WT Docket No. 96-6, the Commission adopted rules that permit CMRS providers to offer fixed wireless services on a co-primary basis with mobile services. *See Amendment of the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services, First Report and Order & Further Notice of Proposed Rule Making*, FCC 96-283, released August 1, 1996 (*CMRS Flexibility Order*). There, the Commission noted that the increased flexibility would "allow CMRS providers to better respond to market demand and increase competition in the provision of telecommunications services." *Id.* at ¶ 1. The Commission also stated that the testimony and reports generated from its March 1996 *Spectrum En Banc* hearing demonstrated that regulatory flexibility will enable licensees to experiment and provide innovative services. *Id.* at ¶ 3. The rule changes suggested by AMTA are similar to the changes adopted in the *CMRS Flexibility Order* and should be adopted. Like the ability to offer fixed services, allowing a licensee to define its own service area and spectrum needs will allow more experimentation and innovation in the CMRS services.

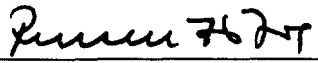
With regard to the licensing and procedural issues raised by a permissible partitioning / disaggregation regulatory scheme, PCI favors AMTA's position that the "partitionee" or "disaggregatee" be the sole entity responsible for compliance with the Commission's construction requirements. PCI generally supports AMTA's proposals for transferring the MTA licensee's construction obligations, expiration date and renewal expectancy to the "partitionee" or "disaggregatee." PCI also agrees that any assignment of spectrum to an entity that does not qualify as a designated entity should be accompanied with the appropriate unjust enrichment payment that is determined on a pro rata basis. Finally, because partitioning and disaggregation closely mirror partial assignments, PCI also supports AMTA's proposed application process.

III. Conclusion

WHEREFORE, for the reasons stated herein, PCI respectfully requests the Commission to permit the flexible use of CMRS spectrum by adopting the rule changes suggested by AMTA in its Petition.

Respectfully submitted,

PITTENCRIEFF COMMUNICATIONS, INC.

By: 

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Its Attorneys

Dated: October 21, 1996

CERTIFICATE OF SERVICE

I, Christine Peyton, a secretary in the law firm of Gardner, Carton & Douglas, certify that I have this 21st day of October, 1996, caused to be sent by first-class U.S. mail, postage-prepaid, a copy of the foregoing Comments to the following:

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Commercial Wireless Division
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Christine Peyton
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